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C O N F I D E N T I A L SECTION 01 OF 02 BELGRADE 001313

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SUBJECT: (C) SERBIAN GOVERNMENT EXPLORES COMPENSATION IN  
KOVACEVIC CASE

REF: BELGRADE 1287

Classified By: Political Chief Deborah Mennuti; reasons 1.4 (B,D).

Summary

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¶1. (C) In the interest of resolving the case of fugitive Miladin Kovacevic before the arrival of the new U.S. administration, the Serbian government has decided to explore the possibility of offering financial compensation to the family of victim Bryan Steinhauer. Post is facilitating discussions between the Serbian authorities and interested parties in the United States. Our Serbian government interlocutors also remain eager to conclude a bilateral extradition agreement in order to provide a legal basis for eventual extradition if other options fail. Kovacevic remains in pre-trial detention in Belgrade but will likely be released on December 28. End summary.

Government Explores Settlement

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¶2. (C) In a December 14 meeting with the Ambassador, presidential advisor Srdjan Saper reported that the Serbian government had decided to explore the possibility of financial compensation for the family of Bryan Steinhauer, the Amcit that Serbian fugitive Miladin Kovacevic is accused of assaulting in Binghamton, New York, on May 4. According to Saper, the Serbian government considered the situation to be unprecedented and was therefore willing to take the unprecedented step of assuming financial responsibility for the actions of its citizen Kovacevic. Saper said that in return, Serbia sought the agreement of the Steinhauer family to drop their objections to Kovacevic being tried in Serbia, and the agreement of the U.S. government to formally transfer the case for prosecution. Saper hoped the Steinhauers would be able to convince key U.S. Senators to support such an agreement. Saper stressed that President Tadic wanted to resolve the situation before President-elect Obama was inaugurated -- and Senator Clinton became Secretary of State -- in order to prevent the case from tarnishing relations with the new administration.

¶3. (C) Post's Resident Legal Advisor contacted the Steinhauers' civil lawyer Irwin Rochman and Broome County prosecutor Gerry Mollen on December 16 to apprise them of the Serbian government's initiative and to offer to convey their response to the Serbian authorities. Post will continue to facilitate communication between the interested parties in

the U.S. and Ministry of Justice State Secretary Slobodan Homen, the primary point of contact in the Serbian government.

#### Extradition Treaty Still Important

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¶4. (SBU) In a December 17 conversation, Homen emphasized that the settlement initiative did not in any way diminish the importance of pursuing a bilateral extradition treaty (reftel). He clarified that Serbia would be open either to signing a new agreement or amending the 1901 treaty, which covers only the most serious crimes such as homicide. He noted pros and cons to each approach: while it might be more time-consuming to negotiate a new document, the 1901 treaty might require significant updating. Homen pointed out that an extradition agreement was necessary not only for leverage in the Kovacevic case, but also for future legal cooperation.

#### Court Upholds Kovacevic's Detention

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¶5. (U) Belgrade's Second Municipal Court on December 15 confirmed its earlier decision to extend Miladin Kovacevic's pre-trial detention until December 28 (reftel). The court cited flight risk as the grounds for continuing to hold Kovacevic. Homen expects the court to release Kovacevic on December 28, but assures us that prosecution will continue.

#### Comment

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¶6. (C) We see the Serbian government's decision to explore new ways to resolve the Kovacevic case as a very positive development, particularly in light of the financial burden that the need for long-term care has placed on the Steinhauer family. Any offer of financial compensation would of course require careful public handling to avoid giving the appearance that financial concerns had trumped the need for justice to be done; close cooperation with Serbian prosecutors to ensure a domestic conviction would be crucial. (It is also possible that if faced with the maximum 8 year sentence in Serbia, Kovacevic would still accept a U.S. plea bargain for a lesser sentence.) We also believe that it would be prudent to pursue a bilateral extradition agreement, and look forward to Department's response to our reftel request for guidance. End comment.  
MUNTER